

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 93-20027

JAMES ERWIN,

Defendant.

**ORDER GRANTING DEFENDANT'S "APPLICATION TO PROCEED WITH AN
APPEAL WITHOUT PREPAYMENT OF FEES AND COSTS . . ."**

Pending before the court is Defendant James Erwin's July 12, 2006 "Application to Proceed With an Appeal Without Prepayment of Fees and Costs and Authorization to Withdraw Funds from Trust Fund Account." Defendant has filed an appeal of the court's April 5, 2006 "Order Denying Defendant's Motion to Modify Judgment," and now seeks leave to appeal *in forma pauperis*.

Federal Rule of Appellate Procedure 24(a)(1) provides that a party to a district court action who desires to appeal *in forma pauperis* must file a motion in the district court. An appeal may not be taken *in forma pauperis* if the court determines that it is not taken in good faith. 28 U.S.C. § 1915(a)(3). "[T]o determine that an appeal is in good faith, a court need only find that a reasonable person could suppose that the appeal has some merit." *Walker v. O'Brien*, 216 F.3d 626, 631 (7th Cir. 2000). The court is familiar with the issue presented in this case, and concludes that an appeal of the court's April 5, 2006 order may be taken in good faith. Defendant has also attached documentation establishing his "inability to pay or to give security for fees and costs."

Fed. R. App. P. 24(a)(1)(A). The court will therefore grant Petitioner's application to proceed without prepayment of the filing fee.

Accordingly, IT IS ORDERED that Defendant's "Application to Proceed With an Appeal Without Prepayment of Fees and Costs and Authorization to Withdraw Funds from Trust Fund Account" [Dkt. # 104] is GRANTED.

S/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: July 31, 2006

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, July 31, 2006, by electronic and/or ordinary mail.

S/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522